

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

3870 STARR, LLC,
3870 Starr Centre Dr., Suite B,
Canfield, Ohio 44406

Plaintiff

vs.

SELECTIVE INSURANCE COMPANY
OF THE SOUTHEAST
3426 Toringdon Way
Charlotte, NC 28277

Defendant

CASE NO.

JUDGE:

SELECTIVE INSURANCE COMPANY
OF THE SOUTHEAST'S NOTICE OF
REMOVAL OF CIVIL ACTION

Defendant Selective Insurance Company of the Southeast ("Selective"), by and through its undersigned counsel, with full reservation of any and all rights and defenses, hereby provides its Notice of Removal of this civil action from the Court of Common Pleas, Mahoning County, State of Ohio, to the United States District Court for the Northern District of Ohio, Eastern Division, and invocation of the United States District Court's jurisdiction pursuant to 28 U.S.C. §§ 1332, 1441, 1446 and 2201 (the "Notice of Removal"), as a matter of right, on the following basis:

1. Selective is a defendant in a civil action pending in the Court of Common Pleas, Mahoning County, State of Ohio, captioned as 3870 Starr, LLC v. Selective Insurance Company of the Southeast, Case No. 17 CV 1426 (the “Action”).

2. The Action was filed by 3870 Starr, LLC alleging breach of an insurance contract issued by Selective and bad faith by Selective. The action was filed on June 8, 2017. A true and accurate copy of the Complaint is attached hereto as **Exhibit A**.

3. The Complaint is required to be served on Selective and Selective first received the Complaint on or after June 16, 2017, which is the date a copy of the Complaint was served upon Selective. **Exhibit A** is a complete copy of the Complaint received by Selective.

4. The Complaint attached hereto as **Exhibit A** constitutes the entirety of all process, pleadings and orders served upon Selective to date.

5. In the Mahoning County Court of Common Pleas, Selective filed an Answer and Complaint for Declaratory Judgment, a copy of which is attached hereto as **Exhibit B**.

6. A copy of the Mahoning County Court of Common Pleas’ docket is attached hereto as **Exhibit C**. The docket evidences that the Complaint was filed on June 8, 2017 and service was perfected upon Selective on June 16, 2017.

7. Selective’s Notice of Removal is being filed within thirty (30) days after the receipt by Selective of the initial pleading setting forth the claim for relief upon which the action is based and is timely pursuant to 28 USCS § 1446.

8. Plaintiff’s Complaint alleges that it and Selective are parties to policy of insurance that covers business property located at 3870 Starr Center Drive, Canfield, Ohio 44406. It is further alleged that while the Selective Insurance policy was in effect, the “property suffered damage due

to storm related conditions, including hail and /or wind” and shortly thereafter, “Plaintiff submitted a claim Defendant”. (**Exhibit A** - Complaint, paras. 1, 2, 3, 4.)

9. Plaintiff’s Complaint alleges that Selective “denied all coverages related to damages subject of this suit.” (**Exhibit A** - Complaint para 6.) Plaintiff alleges that “Selective Insurance has failed to timely and properly conduct an objective investigation.” (Complaint, para. 7.)

10. As a result of the allegations in the Complaint, Plaintiff alleges that Defendant Selective breached its contract with Plaintiffs and that such conduct by Defendant allegedly constitutes bad faith.

11. Plaintiff alleges damages for breach of contract in an amount in excess of Twenty Five Thousand Dollars. Additionally, for the count of bad faith, Plaintiff alleges compensatory damages in an amount in excess of Twenty Five Thousand Dollars and punitive damages in an amount in excess of Twenty Five Thousand Dollars. Thus, Plaintiff has plead an entitlement to total damages in an amount in excess of Seventy Five Thousand Dollars. (\$75,000) (**Exhibit A** - Complaint paras. 13 and 19.)

12. The United States District Court has jurisdiction over this civil action pursuant to 28 U.S.C. § 1332, which provides jurisdiction over all civil actions where the matter in controversy exceeds the sum or value of \$75,000 and is between citizens of different states.

13. Insofar as the resolution of this matter requires the court to declare the rights and duties of the parties pursuant to the language of the policy of insurance, this Court has jurisdiction under U.S.C. § 2201, which provides jurisdiction over Declaratory Judgment actions.

14. Selective is an insurance company incorporated in the State of Indiana, having its principal place of business in the State of New Jersey and Selective is a citizen of the State of Indiana as contemplated by 28 U.S.C. § 1332.

15. It is alleged that Plaintiff 3870 Starr, LLC, is a business whose mailing address is located at Canfield, Ohio. (Complaint, para. 1.) Therefore, Plaintiff is a citizen of the State of Ohio as contemplate by 28 U.S.C. § 1332.

16.. As Plaintiff has alleged damages in the amount in excess of Seventy Five Thousand Dollars (\$75,000.00), and the civil controversy is between citizens of different states, this Court has jurisdiction.

17. The United States District Court for the Northern District of Ohio, Eastern Division is the appropriate venue for the removal of the action as it is the district court of the United States for the district and division embracing the place where the action is pending and is the appropriate district and division for removal of this action pursuant to 28 U.S.C.S. § 1441. Further, it is the judicial district in which a substantial part of the events or omissions giving rise to the claim are alleged to have occurred, or a substantial part of property that is the subject of the action is allegedly situated under 28 USCS § 1391.

18. Written notice of the filing of this Notice of Removal is being provided to Plaintiff and the Court of Common Pleas, Mahoning County, State of Ohio, pursuant to 28 U.S.C.S. § 1446, by Selective's filing of the Notice of Removal to the United States District Court for the Northern District of Ohio, Eastern Division, a copy of which is being attached hereto as **Exhibit D**, along with a copy of the within Notice of Removal with the clerk of the County Court and service of the County Court Notice and documents upon counsel for Plaintiff as indicated in the Certificates of Service affixed hereto.

WHEREFORE, Selective provides its Notice of Removal of this Civil Action to the United States District Court for the Northern District of Ohio, Eastern Division.

Respectfully submitted,

/s/ *William H. Kotar*

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CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2017 a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ *William H. Kotar*

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